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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,962	07/11/2003	Arne W. Ballantine	21806-00113-US1	2127
30678	7590	03/02/2004	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ LLP			POMPEY, RON EVERETT	
SUITE 800			ART UNIT	
1990 M STREET NW			PAPER NUMBER	
WASHINGTON, DC 20036-3425			2812	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/616,962	Applicant(s) BALLANTINE ET AL.	
	Examiner Ron E Pompey	Art Unit 2812	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 23-25 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 23-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-11-03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-9, 12-13, 16 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (US 5,441,904).

Kim discloses the limitations of:

a first region (3, fig. 1B) adjacent the dielectric and comprising silicon crystals of a first grain size; and

a second region (4, fig. 1B) formed contiguously with and over the first region and comprising silicon crystals of a second grain size (col. 2, ln. 44 – col. 3, ln.4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-6, 10-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (US 5,441,904) in further view of Yew et al. (US 6,150,251) and Ozuturk et al. (US 5,242,847).

Kim does not disclose the claimed limitation(s) of:

a third region formed on the second region and having crystals of a third grain size, to further tailor the resistance of the gate conductor structure;

the further step of: forming a layer rich in carbon atoms or of silicon-germanium at a selected stage of the silicon deposition.

However,

a. Yew discloses the above claimed limitations regarding:

forming a third region (108, fig. 1C) that further tailors the resistance of the top of the gate in column(s) 2, line(s) 45-48.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Yew with Kim, because the third layer will help with controlling the critical dimension of the gate during lithography.

b. Ozturk discloses the above claimed limitations regarding:

further forming a carbon rich or silicon-germanium layer when forming the gate in column(s) 8, line(s) 53-58.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ozturk with Kim, because the silicon-germanium layer will help with lowering the resistivity of the gate. Also, the limitation of carbon rich layer being formed with the gate is held to be equivalent layers in functionality and therefore is a matter of design choice, *Smith v. Hayashi*, 209 USPQ 754 (Bd. of Pat. Inter. 1980). If the applicant believes that performing the further step of forming a carbon rich or silicon-germanium layer during formation of the gate are distinguishable from each other then a species election is requested, so that the examiner knows which invention to prosecute.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.


3. Claims 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations of controlling the variation in a step-wise manner to form the multi-region polysilicon are not described in the specification.

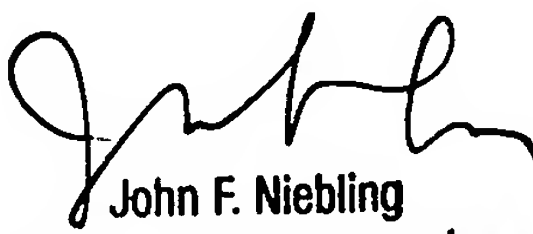
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ron E Pompey whose telephone number is (571) 272-1680. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on (571) 272-1679. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2812

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ron Pompey
AU:2812
February 23, 2004


John F. Niebling
Supervisory Patent Examiner
Technology Center 2800